

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 59

Introduced by Coordsen, 32

Read first time January 4, 2001

Committee: Revenue

A BILL

- 1 FOR AN ACT relating to the Tax Equalization and Review Commission;
- 2 to amend section 77-5016, Revised Statutes Supplement,
- 3 2000; to change appeal provisions; to harmonize
- 4 provisions; to repeal the original section; and to
- 5 outright repeal section 77-1511, Reissue Revised Statutes
- 6 of Nebraska.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5016, Revised Statutes Supplement,
2 2000, is amended to read:

3 77-5016. All cases appealed to the commission shall be
4 granted an informal hearing unless a formal hearing is granted as
5 determined by the commission according to its rules and
6 regulations. In cases appealed to the commission:

7 (1) The commission may admit and give probative effect to
8 evidence which possesses probative value commonly accepted by
9 reasonably prudent persons in the conduct of their affairs. It
10 shall give effect to the rules of privilege recognized by law. It
11 may exclude incompetent, irrelevant, immaterial, and unduly
12 repetitious evidence. Any party to an appeal filed under section
13 77-5007 may request a formal hearing by delivering a written
14 request to the commission not more than thirty days after the
15 appeal is filed. The request shall include the requesting party's
16 agreement to be liable for the payment of costs incurred and upon
17 any appeal or review, including the cost of court reporting
18 services which the requesting party shall procure for the hearing.
19 The commission shall be bound by the rules of evidence applicable
20 in district court in any formal hearing held by the commission.
21 All costs of a formal hearing shall be paid by the party or parties
22 against whom a final decision is rendered;

23 (2) The commission may administer oaths, issue subpoenas,
24 compel the attendance of witnesses and the production of any
25 papers, books, accounts, documents, statistical analysis, and
26 testimony, and cause the depositions of witnesses residing either
27 within or without the state to be taken in the manner prescribed by
28 law for taking depositions in civil actions in the district court;

1 (3) All evidence including records and documents in the
2 possession of the commission of which it desires to avail itself
3 shall be offered and made a part of the record in the case. No
4 other factual information or evidence shall be considered in the
5 determination of the case. Documentary evidence may be received in
6 the form of copies or excerpts or by incorporation by reference;

7 (4) Every party shall have the right of cross-examination
8 of witnesses who testify and shall have the right to submit
9 rebuttal evidence;

10 (5) The commission may take notice of judicially
11 cognizable facts and in addition may take notice of general,
12 technical, or scientific facts within its specialized knowledge or
13 statistical information regarding general levels of assessment
14 within a county or a class or subclass of property within a county
15 and measures of central tendency within such county or classes or
16 subclasses within such county which have been made known to the
17 commission. Parties shall be notified either before or during the
18 hearing or by reference in preliminary reports or otherwise of the
19 material so noticed. They shall be afforded an opportunity to
20 contest the facts so noticed. The commission may utilize its
21 experience, technical competence, and specialized knowledge in the
22 evaluation of the evidence presented to it;

23 (6) Any person testifying under oath at a hearing who
24 knowingly and intentionally makes a false statement to the
25 commission or its designee is guilty of perjury. For the purpose
26 of this section, perjury is a Class I misdemeanor; and

27 (7)(a) The commission shall hear appeals and cross
28 appeals taken under section ~~77-5007 as in equity and without a jury~~

1 77-1510 and determine de novo all questions raised before the
2 county board of equalization ~~or the Property Tax Administrator~~
3 which relate to the liability of the property to assessment or the
4 amount thereof. The commission shall affirm the action taken by
5 the board ~~or Property Tax Administrator unless evidence is adduced~~
6 ~~establishing that the action of the board or the Property Tax~~
7 ~~Administrator was unreasonable or arbitrary unless the appellant~~
8 ~~establishes by a preponderance of the evidence that the assessed~~
9 ~~value of the property (i) exceeds its actual value or (ii) was not~~
10 ~~equalized to similar property in the county.~~

11 (b) In any other appeal or cross appeal heard by the
12 commission, the commission shall affirm the action of the board or
13 the Property Tax Administrator unless the appellant establishes by
14 a preponderance of the evidence that such action violates the
15 Constitution of Nebraska, state law, or applicable rules and
16 regulations.

17 (c) Any decision rendered by the commission shall be
18 certified to the parties and, if applicable, to the county
19 treasurer and the official charged with the duty of preparing the
20 tax list. When such decision becomes final, ~~any~~ such officials
21 shall correct their records accordingly.

22 Sec. 2. Original section 77-5016, Revised Statutes
23 Supplement, 2000, is repealed.

24 Sec. 3. The following section is outright repealed:
25 Section 77-1511, Reissue Revised Statutes of Nebraska.